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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/566,110	08/16/2006	James Hamilton Erskine	8830-381(220706)	9529
7590 06/15/2009 Gregory J. Lavorgna, Esquire Drinker Biddle & Reath One Logan Square 18th & Cherry Streets Philadelphia, PA 19103-7595				
EXAMINER JOHNSON, STEPHEN				
ART UNIT 3641		PAPER NUMBER		
MAIL DATE 06/15/2009		DELIVERY MODE PAPER		

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/566,110

Applicant(s)

ERSKINE, JAMES HAMILTON

Examiner

Stephen M. Johnson

Art Unit

3641

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 18 May 2009.
2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-40 is/are pending in the application.
4a) Of the above claim(s) 1-25 and 31-39 is/are withdrawn from consideration.
5) ☐ Claim(s) _____ is/are allowed.
6) ☒ Claim(s) 26-30 and 40 is/are rejected.
7) ☐ Claim(s) _____ is/are objected to.
8) ☒ Claim(s) 1-40 are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
10) ☒ The drawing(s) filed on 18 January 2006 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☒ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date 1/18/2006
4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____

1. Applicant's election without traverse of the group III invention, drawn to an impact resistant system containing first and second layers in the reply filed on 5/18/2009 is acknowledged.

Claims 26-30 and 40 read on the elected invention and an action on these claims follows.

Claims 1-25 and 31-39 are withdrawn from consideration as being directed to non-elected inventions.

2. The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the third layer that is an internal finished layer (see claim 30) must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will

be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

3. The drawings are objected to because the written specification denotes structures 46 and 44 as indicating the ceiling and floor respectively. However, this does not correspond to the labeling as indicated in fig. 7. Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

4. Claims 26-30 and 40 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

5. In claim 30, use of the terminology "which is able to extend" makes the claim indefinite as to whether or not the Kevlar material must in fact so extend to infringe the claims. In claim

40, lines 4-5, which of the previously claimed assemblies is intended to correspond to the claimed "the assembly"? In claim 40, line 5, it is not understood as to how the reinforcement pieces can be described as being of the wall-reinforcement assembly" when they have been previously claimed as being a constituent part of the transparent assembly (see claim 40, lines 1-2).

6. The term "high tensile strength" in claim 26 is a relative term which renders the claim indefinite. The term "high" is not defined by the claim, the specification does not provide a standard for ascertaining the requisite degree, and one of ordinary skill in the art would not be reasonably apprised of the scope of the invention. Note that what is considered "high" depends upon the context usage. What is considered "high" relative to one tensile strength would be low relative to another tensile strength.

7. The term "strong" in claim 27 is a relative term which renders the claim indefinite. The term "strong" is not defined by the claim, the specification does not provide a standard for ascertaining the requisite degree, and one of ordinary skill in the art would not be reasonably apprised of the scope of the invention. Note that what is considered to be "strong" depends upon the context usage. What is considered to be "strong" relative to another strength would be low relative to another strength.

8. Claim 28 contains the trademark/trade name Kevlar. Where a trademark or trade name is used in a claim as a limitation to identify or describe a particular material or product, the claim does not comply with the requirements of 35 U.S.C. 112, second paragraph. See *Ex parte Simpson*, 218 USPQ 1020 (Bd. App. 1982). The claim scope is uncertain since the trademark or trade name cannot be used properly to identify any particular material or product. A trademark

or trade name is used to identify a source of goods, and not the goods themselves. Thus, a trademark or trade name does not identify or describe the goods associated with the trademark or trade name. In the present case, the trademark/trade name is used to identify/describe a material and, accordingly, the identification/description is indefinite.

9. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

10. Claims 26-30 are rejected under 35 U.S.C. 102(b) as being anticipated by Michaelson (462).

Michaelson (462) discloses a wall-reinforcement assembly comprising:

- a) a structure including a wall with adjacent floor and ceiling; 12
- b) a first Kevlar layer secured to the floor or ceiling; 16, 20, 24, 28;
col. 4, lines 23-45
- c) a securing or coupling assembly; 56, 58
- d) parallel flexible reinforcing pieces; and 18, 22, 26, 30;
col. 4, lines 23-45
- e) a third layer to provide an internal finish. 14

11. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

12. Claim 40 is rejected under 35 U.S.C. 103(a) as being unpatentable over Michaelson (462) in view of Krings et al. (193).

Michaelson (462) applies as previously recited. However, undisclosed is a transparent window panel that is non-rigidly secured via flexible material reinforcement pieces. Krings et al. (193) teaches a transparent window panel that is non-rigidly secured via flexible material reinforcement pieces (1, 2, 3, 15, 16 (see figs. 1-3)). Applicant is substituting one type of windshield mounting assembly for another in an analogous art setting for the known advantages as taught by Krings et al. with expected or predictable results. It would have been obvious to a person of ordinary skill in this art at the time of the invention to apply the teachings of Krings et al. to the Michaelson wall-reinforcement assembly and have a wall reinforcement assembly with a differently attached windshield.

13. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Stephen M. Johnson whose telephone number is 571-272-6877 and whose e-mail address is (Stephen.Johnson@uspto.gov). The examiner can normally be reached on Tuesday through Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Michael Carone can be reached on 571-272-6873. The Central FAX phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 800-786-9199.

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/Stephen M. Johnson/

Primary Examiner, Art Unit 3641

SMJ

June 12, 2009